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**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

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PUBLIC SERVICE  
COMMISSION

**In the Matter of:**

**AN INVESTIGATION OF EAST KENTUCKY  
POWER COOPERATIVE, INC.'S NEED  
FOR THE GILBERT UNIT AND THE  
KENTUCKY PIONEER ENERGY, LLC  
PURCHASE POWER AGREEMENT**

)  
)  
) **CASE NO. 2003-00030**  
)  
)

**THE APPLICATION OF EAST KENTUCKY  
POWER COOPERATIVE, INC. FOR  
APPROVAL TO PURCHASE POWER  
AGREEMENT**

)  
) **CASE NO. 2000-00079**  
)  
)

**PREPARED TESTIMONY OF RONALD D. BROWN  
ON BEHALF OF  
EAST KENTUCKY POWER COOPERATIVE, INC.**

Q. Please state your name and address.

A. My name is Ronald D. Brown and my address is 2192 Broadhead Place, Lexington,  
Kentucky 40515.

Q. By whom are you employed and in what capacity?

A. I am employed by East Kentucky Power Cooperative, Inc. as a consultant for special  
projects.

Q. Are you familiar with the East Kentucky Power Cooperative, Inc. (EKPC) contract  
with Wabash Valley Power Association (WVPA) that provides for the sale of 100  
MW of capacity and energy from the Kentucky Pioneer Energy (KPE) project by  
EKPC to WVPA?

A. Yes, I am.

Q. What is the current status of that contract?

A. The contract is presently still in force. However, it may now be cancelled by either party with ninety (90) days written notice since KPE did not obtain necessary financing by June 30, 2001.

Q. Has either party given written notice of cancellation?

A. As of this date, no.

Q. Are there any other cancellation provisions?

A. Yes. There is another provision in the WVPA/EKPC contract that, in my opinion, will no doubt cause it to be cancelled. This provision states that the contract “...*shall terminate automatically if the KPE Project does not commence Commercial Operation on or before March 31, 2005.*”

Q. Are you saying the KPE project will not be in commercial operation on or before March 31, 2005?

A. I’m making that assumption based on information provided by KPE at the March 12, 2003, informal conference in this case, indicating that the KPE project would require 30 months to construct, and would not likely be available before late 2006 or early 2007, at the earliest.

Q. If the KPE/EKPC contract were to be amended to provide for an attainable commercial operation date for the KPE project, would EKPC still want to sell 100 MW of capacity and energy to WVPA, and, secondly, would WVPA still want to buy it?

A. Since the exact terms of any such amendment are unknown at this time, it is impossible to answer either question. However, it is understood from conversations with WVPA personnel that they would probably still be interested in power purchases

starting at a later date (later than 2005) if the other terms and conditions were essentially the same as in the current contract.

Q. Why does the contract with WVPA include a provision for a 9.5 year extension of the term?

A. EKPC and WVPA wanted to provide for an extension of the contract for up to 50 MW at the end of the initial term, if mutually agreeable terms for such an extension could be reached at that time. Since WVPA agreed to purchase a percentage of KPE's actual output around-the-clock, continuing that purchase at a lower percentage after the initial term could potentially provide substantial benefits to EKPC, since surplus off-peak energy is inherent in the KPE project. However, EKPC did not agree to give WVPA a unilateral option to extend the arrangement, due to uncertainties about future circumstances, but rather specified that an extension of the agreement would require the renegotiation of the price and the execution of an amendment to the agreement. EKPC would have no obligation to extend the term of the agreement if a new price could not be agreed, and would not agree to an extension on terms which do not represent the best potential sale opportunity for the amount of surplus energy that may exist at that time. EKPC viewed these terms as a framework for a possible future agreement to extend the term, rather than enforceable provisions which could be invoked by WVPA.

Q. Does EKPC feel that these terms are in conflict with the Commission's approval in PSC Case No. 2000-00079?

A. No. In fact these provisions were under discussion between EKPC and WVPA during the Commission's review in that case, and all analyses provided to the Commission in

that case regarding the impact of the WVPA sale were consistent with those terms. EKPC referred to the WVPA as a "ten year sale" as an approximation of the initial term, which is the only sale commitment that EKPC considered to be enforceable. The term was actually 10.5 years, due to certain limitations on KPE's power production obligations for the first six months of commercial operation under the Power Purchase Agreement ("PPA"). While the Commission reviewed analyses of the impact of the WVPA sale in that case, in the context of the approval of the KPE PPA, no detailed review of the WVPA sale agreement terms was conducted. Since the final contract was consistent with the analyses presented in the case, and the terms then under negotiation, EKPC considered it to be consistent with the approval granted. EKPC regrets any confusion that the interpretation of these extension terms may have generated, but assures the Commission that they in no way contradict or change the analyses of the WVPA sale which were considered in the case.

Q. Does this conclude your testimony?

A. Yes.

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BEFORE THE PUBLIC SERVICE COMMISSION**

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|  |   |                            |
|--|---|----------------------------|
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| <b>POWER COOPERATIVE, INC.'S NEED</b>    | ) |                            |
| <b>FOR THE GILBERT UNIT AND THE</b>      | ) | <b>CASE NO. 2003-00030</b> |
| <b>KENTUCKY PIONEER ENERGY, LLC</b>      | ) |                            |
| <b>PURCHASE POWER AGREEMENT</b>          | ) |                            |

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| <b>APPROVAL TO PURCHASE POWER</b>       | ) |                            |
| <b>AGREEMENT</b>                        | ) |                            |

**A F F I D A V I T**

**STATE OF KENTUCKY    )**  
**)**  
**COUNTY OF CLARK     )**

Ronald D. Brown, being duly sworn, states that he has read the foregoing prepared testimony and that he would respond in the same manner to the questions if so asked upon taking the stand, and that the matters and things set forth therein are true and correct to the best of his knowledge, information and belief.

  
Ronald D. Brown

Subscribed and sworn before me on this 3<sup>rd</sup> day of July, 2003.

  
Notary Public

My Commission expires:

January 27, 2005